



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,461	07/31/2001	James K. Weixel	00-5017	3578
32127	7590	03/16/2005	EXAMINER	
VERIZON CORPORATE SERVICES GROUP INC. C/O CHRISTIAN R. ANDERSEN 600 HIDDEN RIDGE DRIVE MAILCODE HQEO3H14 IRVING, TX 75038			MCCLELLAN, JAMES S	
		ART UNIT		PAPER NUMBER
		3627		
DATE MAILED: 03/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	WEIXEL, JAMES K.
Examiner James S McClellan	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 February 2005.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-5 and 7-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-5 and 7-32 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/11/05 has been entered.

Amendment

2. Applicant's submittal of an amendment was entered on 2/11/05, wherein:

claims 1-5 and 7-32 are pending and

claims 1, 8, 17, 24, 28, and 30 have been amended.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7-12 and 15-32 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,991,749 (hereinafter “Morrill”).

Regarding claims 1-5, 7, and 8, Morrill discloses a method and system configured to facilitate ordering of goods or services from a vendor by a customer, comprising: one or more

base stations (“cell antenna”, see column 2, lines 29-31) configured to receive an abbreviated dialing sequence that corresponds to an order from a mobile terminal used by the customer (for example, see column 6, line 63 - column 7, line 26); and a processing center (“CPU”, see column 2, lines 29-31) coupled between the one or more base stations and the vendor (“payee”, see column 5, lines 51-60) and configured to receive the abbreviated dialing sequence, to transmit customer information (it is inherent that the vendor received customer identification information because the vendor is capable of directly billing the user, see column 7, lines 63-65) to the vendor relating to the order, and to bill a wireless account of the customer for a monetary amount of the order (see column 3, lines 20-35); customer preferences are stored in a database (see column 7, lines 43-46); posting abbreviated dialing sequence codes corresponding to the vendor on signs (see column 7, lines 14-16); the location of the mobile terminal is determined (see paragraph bridging columns 6-7, wherein the facility ID number is an indication of the user’s location; see also column 4, line 34); and the vendor is a restaurant and the customer is a motorist (see column 3, lines 46-47).

Additional features disclosed by Morrill as required by claims 9-12 and 15-32, that were not addressed above include: billing a credit card or debit card of the customer for a monetary amount of the order (see column 4, lines 16-24); entering into an agreement with the vendor to provide the abbreviated dialing service to the vendor (see column 6, lines 47-62); collecting revenue from the vendor according to the agreement (“transaction fees”, see column 6, lines 59-62); and acquiring a preferred manner of payment from the customer (see column 4, lines 17-38).

Regarding amendment to claims 1, 8, 17, 24, 28, and 30 on 2/11/05, Morrill discloses transmitting customer information to a vendor, wherein the location of the customer is remote from the vendor (see column 3, lines 20-21; “permits face-to-face or remote transactions”).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrill in view of U.S. Patent No. 5,327,144 (hereinafter “Stilp”).

Morrill disclose all the claimed elements as set forth above, but fails to explicitly disclose calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information and global positioning system information.

Stilp teaches the use of calculating the location of the mobile terminal based on signal information received at one or more base stations using time delay information (see paragraph bridging columns 6-7) and global positioning system information.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Morrill with time delay cellular phone location determination taught by Stilp, because determining the location of a user will allow the user to enter fewer codes but will locate the proper vendor.

Response to Arguments

7. Applicant's arguments filed February 11, 2005 have been fully considered but they are not persuasive.

On pages 13-15, Applicant argues that Morrill fails to disclose transmitting customer information at a location that is remote from the vendor. The Examiner respectfully disagrees. First, Morrill notes that his system and method allows for "face-to-face" or "remote" transactions (see column 3, lines 20-21). Secondly, with regard to Morrill's parking garage example, Morrill is at least somewhat remote from the garage when the customer information is sent to the vendor. For example, the parking garage entrance gate is not opened until customer information is received by the vendor (see column 7, lines 27-31). It is the Examiner's position, that a customer is "remote" from the parking garage until the customer actually enters the garage. Finally, Morrill clearly states that the computer system (vendor) receiving the customer information may be offsite (i.e. remote from the garage and the customer; see column 6, lines 38-39).

On page 16, third full paragraph, Applicant argues that Morrill fails to disclose the required features of claim 11, "identifying a vendor that is most convenient to the customer based on the determined location of the mobile terminal and sending the customer information to the identified vendor." Applicant provides an example in an attempt to overcome the Examiner's assertion of inherency, wherein a closest vendor to a customer on a highway is not necessarily the most convenient vendor for the customer. However, the Examiner is relying on a specific customer/vendor example of a parking garage. The Examiner's assertion of inherency is based directly on the applied embodiment taught by Morrill, not as a generality. It is the

Examiner's position, that parking garage located adjacent the customer is inherently the most convenient.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212 until April 13, 2005. After April 13, 2005, the examiner can be reached at (571) 272-6786. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

James S. McClellan
James S. McClellan
Primary Examiner
A.U. 3627